REMARKS

Claims 1-5, 7-16, 21-26, 28-42 and 44-52 were previously pending. Claims 1, 9, 11-16, 21-26, 28-32, 34-37, 39-42, and 45-52 have presently been amended, claims 6, 17-20, 27 and 43 have been cancelled, and claims 53-60 have been added in this amendment. It should be noted that all claims cancelled are done so without prejudice and applicants' wish to make clear such cancellations were not necessitated or otherwise done in response to or because of any reference of record. Claims 1-5, 7-16, 21-26, 28-42, 44-60 are now pending. Consideration and allowance of each of these claims is respectfully requested.

STATUS OF CLAIMS

1) Claims 1-5,7,9,10,12, 15-16,21-26,28,30,31,33,36-42,44, 45 and 47-50 under 35 U.S.C. §102(b) as being anticipated by Evans, U.S. Patent No. 3,717,857 (herein Evans);

2) Claims 1,7-11, 23, 25,29, 32, 34, 46, 49, and 51 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,461,245 to Morgan (herein Morgan);

3) Claims 14, 35, and 52 stand rejected under 35 U.S.C. 103(a) as being patentable over Morgan in view of U.S. Patent No. 5,816,953 to Cleveland (herein Cleveland);

4) Claims 6, 17-20, 27 and 43 have been cancelled (*without* prejudice); and

5) Claims 53-60 (dependent claims) are new.

CLAIM REJECTIONS

In the Office Action, the Examiner has rejected independent claim 1-5,7,9,10,12, 15-16,21-26,28,30,31,33,36-42,44, 45 and 47-50 under 35 U.S.C. §102(b) as being anticipated by Evans, U.S. Patent No. 3,717,857 (herein Evans). Claims 1,7-11, 23, 25,29, 32, 34, 46, 49, and 51 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,461,245 to Morgan (herein Morgan). Claims 14, 35, and 52 stand rejected under 35 U.S.C. 103(a) as being patentable over Morgan in view of U.S. Patent No. 5,816,953 to Cleveland (herein Cleveland).

A. Independent Claim 1

Independent claim 1, as amended, recites a system for registration and analysis of data from a practiced stage, and for generation of action programs that depend on the performed analysis, the system including, *inter alia*, (a)(i) a selection device connected to a profile generation device or the comparison device or (ii) a memory containing a profile data structure, and being devised to select, in dependence of, e.g., based on or using, (b)(i) a characteristics profile or (ii) a comparison profile, from a multitude of pre-stored action programs, one of the action programs adapted for overcoming shortcomings representative of the comparison profile. None of the cited references, including Evans and Morgan, alone or in combination with each other or any other reference of record, disclose, teach or suggest, at least this subject matter.

While Evans discloses a system used to display and compare gathered data to a stored reference (*see*, col. 3, line 48 – col. 4, line 48 of Evans), Evans does not disclose, teach or otherwise suggest (a) an action program, much less a multitude of action programs, (b) selection of an action program from a multitude of action programs, as well as (c) a selection device that makes any type of a selection whatsoever dependent on either (i) a characteristics profile generated by a profile generation device, or (ii) a comparison profile generated by a comparison device. Since Evans fails to disclose, teach or suggest each of these claim elements found claim 1, anticipation clearly is not met under 35 U.S.C. § 102(b) necessitating withdrawal of the claim rejection based on

this reference. Therefore, for at least these reasons, it is believed claim 1 is presented in condition for allowance and applicants respectfully request claim 1 be allowed.

Applicants' respectfully further submit that Evans fails to disclose any kind of a program, as is required by claim 1. The dictionary definition of the term "program" is "an ordered list of events to take place or procedures to be followed." *See* definition of "program" at http://www.bartleby.com/61/54/P0585400.html. In like manner, the specification of the present application discloses that an "action program," for example, "preferably consists of a series of exercises adapted to overcome the shortcomings detected by said comparison, and these exercises may be practical as well as theoretical." Page 14, line 24-26 of the present application published as WO 01/10518 (PCT/SE00/01501). *See also, e.g.*, page 13, line 31 through page 14, line 24 of WO 01/10518 (e.g., "action programs" that are multiple instruction/question tests).

Since Evans fails to disclose, teach or suggest an "action program," it logically follows that it simply cannot therefore (a) disclose a multitude of action programs nor (b) selection of an action program from the multitude of action programs as recited in claim 1. Indeed, applicants' submit that there is no disclosure in Evans that appears to even remotely correspond to any of these claim limitations. As such and based on this alone, reconsideration and allowance of claim 1 is respectfully requested.

However, even if it is assumed for argument's sake that the switching circuit 60 disclose in Evans somehow corresponds to the "switching device" recited in claim 1 (which it does not), Evans still fails to disclose other related claim limitations recited in claim 1 because the switching circuit 60 does not select even a *single* program let alone a particular program from a multitude of programs. This is because Evans' switching circuit 60 is used to indicate which signal or signals (such as signals corresponding to the "twist of the plate, the flex of the plate, or the velocity or acceleration or any combination ...," disclosed at col. 5, lines 4-7 of Evans) to include as display inputs or display driving inputs. Therefore, for at least these further reasons, claim 1 is presented in condition for allowance and applicants' respectfully request claim 1 be allowed.

Additionally, not only do the display inputs disclosed in Evans fail to correspond to any kind of an action program or even a profile, this reference also fails to disclose, teach or suggest that its switching circuit 60 is configured to make any kind of a selection based on a characteristics profile or a comparison profile. Indeed, Evans is virtually completely silent as to what determines when the switching circuit 60 actually operates to switch anything. Thus, for these additional reasons, Evans does not disclose each and every limitation of the claim 1 such that there can be no anticipation of claim 1 under 35 U.S.C. § 102.

Morgan is at least as deficient as the Evans reference. For example, the title of the Morgan reference is mislabeled "Golf Improvement System," because this patent actually discloses nothing more than an electronic report generator that generates a report from a golfer's written data that does not provide any improvement guidance but rather requires the club professional to interpret the report. (*See, e.g.*, col. 3, lines 12-19, of Morgan).[1] Therefore, as with Evans, Morgan also fails to disclose, teach or suggest an "action program adapted for overcoming shortcomings." Since Evans and Morgan both fail to disclose, teach or suggest at least these claim limitations, the requirements for anticipation are clearly not met necessitating withdrawal of the rejection of this claim under 35 U.S.C. § 102(b).

Since Morgan fails to disclose, teach or suggest an action program, it also logically flows therefrom, as was also the case for Evans, that Morgan simply cannot disclose, teach or suggest a multitude, e.g., group, of programs. Any attempt to equate or otherwise establish correspondence of these claim limitations with comparison of golfer data against handicap peer groups is simply wrong because a handicap peer group is a class to which a golfer can belong. This is not the same as and in no way corresponds to a series of steps, a list of instructions or set of procedures of one of a

[1] Morgan's unsuitability/inapplicability as a reference citable against the claimed invention is further evidenced by the additional teaching away of Morgan that "[t]he present invention is designed to fit within the traditions of the game and not as computer solution or electronic game" found at col. 10, lines 12-14 of Morgan.

multitude of action programs selected by a selection device for the golfer to follow to "overcome shortcomings" such as to improve their game.

Indeed, just as Evans is lacking in the following regard, Morgan too fails to disclose, teach or suggest a "selection device" devised to select a single action program from a multitude of action programs. While Morgan discloses comparing golfer data against a reference, namely the golfer's handicap peer group, whatever device that makes the selection of which peer group to use as a comparison reference does not and simply cannot correspond to the claimed "selection device" because a handicap peer group is not an action program nor a multitude thereof. Once again, applicants' respectfully request claim rejection withdrawal because it is necessitated because Evans and Morgan *both* lack these additional claim limitations.

Therefore, Morgan does not disclose, teach or suggest a system that includes a selection device for selecting a pre-stored action program from a multitude of stored programs dependent on either the characteristic profile or the comparison profile, the selected pre-stored action program adapted for overcoming shortcoming(s) the comparison profile may make apparent or identify. By indicating that a golf professional is needed to provide training help, Morgan actually teaches away from the claimed invention thereby evidencing the non-obviousness of the claimed invention. Finally, the claimed invention is non-obvious over either of these references because neither one result in or provide several advantages of the claimed invention. For example, neither reference discloses a self-improvement system that provides enhanced, i.e., multiple-step action program designated self-improvement assistance. As a result, in both Evans and Morgan, an expensive and perhaps difficult to contract professional is really required to help the golfer improve, especially in any kind of a regimented step-by-step manner. Even where a professional is required in Morgan and/or Evans, the claimed invention provides at least the further advantage of being capable of providing more objective, consistent and uniform step-by-step help, learning and/or assistance resulting from objective criteria employed in the selection device selecting a particular action program from a group of action programs.

A review of the other references of record makes clear they also fail to teach or suggest the claimed invention recited in claim 1. In view of this and the arguments set forth above, reconsideration and allowance of claim 1 is respectfully requested.

B. Claims 2-5 and 7-16

Claims 2-5 and 7-16 either depend directly or indirectly from claim 1 and, as such, are therefore believed allowable for the same reasons that claim 1 is believed allowable. Claims 2-5 and 7-16 are also believed to include subject matter that is independently patentable in addition to the patentable subject matter recited in claim 1. Therefore, for at least the foregoing reasons, claims 2-5 and 7-16 are believed to be presented in condition for allowance and their allowance is respectfully requested.

C. Independent Claim 21

Independent claim 21 has been amended in a manner that applicants' respectfully submit clearly distinguishes it over the Evans reference and establishes its patentability. More specifically, claim 21 has been amended to recite a system that includes a selector configured to select a particular training model from a plurality of pairs, e.g. at least three, of such models with it being selected based on a characteristics profile and/or comparison profile and configured to convey to a sports practiser, e.g. person in training, using the system at least a plurality of steps or instructions designed to improve performance in a later game round (e.g. real or simulated game round).

Since Evans fails to disclose, among other things, any kind of a system with a selector that selects one of three or more training models the person training themselves (practiser) uses to improve performance, anticipation clearly is not met pursuant to 35 U.S.C. § 102(b) thereby necessitating withdrawal of the rejection of independent claim 21. Evans also fails to disclose, teach or suggest, alone or in combination with any other reference of record, such a system that includes multiple training models in combination with the selector configured as recited in claim 21 to select one of the training models based on the claimed selection criteria recited in claim 21. Penultimately, Evans further fails to disclose, teach or suggest a system employing a selector where such training

model selection can be dependent on: (a) a characteristics profile generated by a profiler, and/or (b) a comparison profile generated by a comparator that compares the characteristic profile with a reference. Finally, as previously indicated, Evans fails to present anything corresponding to the selected training model, much less a training model that conveys steps or instructions to the practiser intended to help the practiser subsequently perform better. For at least these reasons, applicants respectfully submit that independent claim 21 is presented in condition for allowance and its allowance is respectfully requested.

D. Independent Claim 22

As amended, independent claim 22 is believed presented in condition for allowance and its allowance is respectfully requested. For example, neither Evans nor Morgan disclose, teach or suggest a computer program product having the specific combination of means recited in claim 22. More specifically, neither Evans nor Morgan disclose, teach or suggest, alone or in combination with each other or any other reference of record, a computer program product that includes the recited combination of (1) computer processing control means, (2) calculating means, (3) profile generation means, (4) comparison means, and (5) selection means. In particular, neither of these references disclose, teach or suggest, among other things, selection means devised to control a computer processing system to select a pre-stored action program from a plurality of pre-stored action programs with the selected pre-stored action program tailored to help address shortcomings indicative of or by the comparison profile/characteristic profile.

In addition, while Morgan at best discloses pre-existing golf player peer groups, e.g., a handicap group to which the player belongs, it does not disclose any action program much less a *pre-stored* action program, all of which is required by claim 22. Evans is even more deficient in this regard because the output report is always based on direct calculation – since nothing is stored, nothing can be selected. Therefore, reconsideration and allowance of claim 22 is also respectfully requested.

E. Claims 23-37

Claims 23-37 depend either directly or indirectly from claim 22 and are believed allowable for the same reasons that claim 22 is believed allowable. Applicants' respectfully submit claims 23-37 also independently recite patentable subject matter in addition to claim 22.

F. Independent Claim 38

Independent 38, as amended, recites a method for registering and analyzing data from a practiced stage, and for generating action programs in dependence of the performed analysis, the method including, inter alia, the step of selecting, in dependence of a characteristics profile or comparison profile, a pre-stored action program from a multitude of pre-stored action programs, the selected pre-stored action program adapted for overcoming shortcomings representative of the comparison profile or comparison profile. This combination of claim limitations found in claim 38 along with the function achieved thereby and benefits flowing therefrom are simply not found, taught or otherwise suggested by any of the references of record, including Evans and Morgan. For at least these reasons, claim 38 is believed presented in condition for allowance and allowance is respectfully requested.

G. Claims 39-52

Claims 39-52 depend either directly or indirectly from claim 38 and are believed allowable for the same reasons that claim 38 is believed allowable. Claims 39-52 may also include patentable subject matter in addition to claim 38.

NEWLY PRESENTED CLAIMS

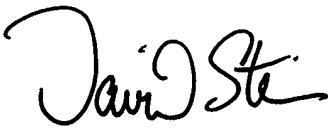
New claim 53 depends from claim 1, and further recites that the selection device automatically performs action program selection. New claim 54 also depends from claim 1, and further recites that the action program includes a training model having one or more pre-stored instructions to perform at least one exercise to overcome at least one of the shortcomings. New claim 55 depends from claim 1 and further recites that the shortcomings are illustrated as a percentage of at least one of correct or incorrect result data relative to the normal profile. New claims 56-58 ultimately depend from independent claim 21, new claim 59 depends from independent claim 22, and each further recite limitations believed to independently define patentable subject matter. Finally, new claim 60 depends from the method recited in claim 38 and further recites that the selecting step is automatic. None of the cited references teach or suggest these limitations.

CONCLUSION AND PETITION FOR THREE-MONTH EXTENSION

Applicants' respectfully assert that claims 1-5, 7-16, 21-26, 28-42, 44-60 recite patentable subject matter, are presented in condition for allowance, and such action is earnestly requested. While a check in the amount of $905 has been enclosed herewith in payment of a three-month extension of time and for a Request for Continued Examination (RCE), both for a small entity, the Commissioner is hereby also authorized to charge $50 to Deposit Account No. 50-1170 for payment of two additional claims over the number previously allotted. No other fees are believed to be payable with this communication. However, the Commissioner is authorized to charge any other fees or credit any overpayment to Deposit Account No. 50-1170.

If the Examiner believes that a telephone interview with the undersigned would facilitate the prosecution and allowance of the application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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